IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.16552 of 2001

Between:

Duggineni Subbarayudu S/o Late D.Bakkaiah, 40 years,
R/o. Garugupalle (V), Chitvel (Mandal),
Kadapa District.

...PETITIONER

AND

1 The Election Commissioner, State Election Commission,
Government of A.P., 2nd Floor, Budha Bhavan,
Secunderabad.

2 The Commissioner, Panchayat Raj & Rural Employment,
Govt., of A.P., Hyderabad.
3 The District Collector & District Election Authority,
Kadapa District, Kadapa.
4 The District Panchayat Officer, Kadapa.

5 The Divisional Panchayat Officer,
Rajampet, Kadapa District.
6 The Mandal Parishad Development Officer,
Chitvel Mandal, Kadapa District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly in the nature of Mandamus Declaring the action of the respondent in Notifying the Malemarpuram Gram Panchayat, Chitvel Mandal, Kadapa District fro Polling in the Election to be

conducted on 14.8.2001 by Election notification dt.1.8.2001, before expiry of full term period of five years as illegal, unjust, arbitrary and unconstitutional besides being contrary to the provision of A.P. Panchayat Raj Act, 1994.

Counsel for the Petitioner: MR.K.SANKARAYYA

Counsel for the Respondents: Spl.GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following:

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ORDER:

The petitioner was elected as Sarpanch of Malemarpuram Gram Panchayat in Chitvel Mandal of Kadapa District in the Elections held on 14.02.1997. He contends that he has a term of five years, which expires in February 2002. However, when the first respondent herein issued a notification of Election scheduled on 14.08.2001, he filed the Writ Petition contending that his term has not come to an end. This Court while admitting the Writ Petition passed interim orders staying the Election. Subsequently, this Court on 13.08.2001 in W.P.M.P.No.20701 of 2001 passed the following order.

I have elaborately heard the learned counsel for the petitioner and the learned Government Pleader appearing on behalf of the learned Additional Advocate General.

In the instant case, admittedly, the Sarpanch of the Gram Panchayat was elected on 14.02.1997. It is true that 10 ward members were elected in the election held on 22.10.1995. But, from the averments made in the counter affidavit, it is not clear as to when the first meeting of the Panchayat was convened and held so as to ascertain as to when the term of the Panchayat has commenced within the meaning of Article 243(E) of the Constitution of India. There is no record made available to satisfy this Court as to on what date the first meeting of the Panchayat was held.

In the circumstances, I am of the opinion that the petitioner has made out *prima facie* case that the term of the Panchayat in question has not come to an end. Holding of the elections to the Gram Panchayat in question pursuant to the impugned notification on 14.08.2001 may not be in conformity with Article 243(E) of the Constitution of India.

In the circumstances, there shall be interim stay of holding of elections on 14.08.2001 for a period of six weeks.

Post this WPMP after four weeks i.e. on 12.09.2001 for further directions.

It is brought to my notice by the learned Special Government Pleader, Sri A.Satya Prasad that by virtue of the interim order, the Elections were conducted and his term also expired in February 2002. Therefore, nothing survives in the Writ Petition.

The Writ Petition is accordingly dismissed as infructuous.

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(V.V.S.RAO, J)

8th September 2004

RRB

Copy To:

1 The Election Commissioner State Election Commission,
Government of A.P., 2nd Floor, Budha Bhavan,
Secunderabad.

2 The Commissioner, Panchayat Raj & Rural Employment,
Govt., of A.P., Hyderabad.
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Kadapa.

5 The Divisional Panchayat Officer,
Rajampet, Kadapa District.
6 The Mandal Parishad Development Officer,
Chitvel Mandal, Kadapa District.

7. Two CCs to G.P. for Panchayat Raj & Rural Development, High Court Buildings, Hyderabad (OUT).

8. Two CCs to Advocate General, High Court Buildings, Hyderabad (OUT).

9. Two CD copies.